IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.
WRIT PETITION NO.2750 OF 2004

Parvathy Jayaraman & anr. .. .. Petitioners
v/s.
Reserve Bank of India & ors. .. Respondents

Ms.Nandini Menon for petitioners.

Mr.K.G.Munshi i/by Udwadia Udeshi for respondent Nos.1 & 4.

Mr.N.N. Bhadrashete for respondent Nos.2 & 3.

Mr.D.Y.Chitnis for respondent No.5.

Mr.K.R.Belosey, Govt.Pleader for respondent No.7.

Ms.Rashida Savliwala i/by Dhruv Liladhar for respondent No.15.

CORAM : H.L. GOKHALE &
V.M. KANADE, JJ.

DATED : 10th January 2007

P.C. :

1. Heard the learned Counsel for the parties.

2. This Petition is filed by the three depositors of respondent No.2-The South India Co-operative Bank Limited. The grievances are made that the affairs of the Bank are not run properly. There are so many outstanding amounts which are not being recovered. Prayer (a) of the Petition is to direct the 1st respondent-Reserve Bank of India to investigate into the affairs and working of the Co-operative Banks i.e. meaning

probably a number of Co-operative Banks in general and to make a report to the Court. Prayer (c) of the Petition is directed against respondent No.2-Bank as also prayer (d) which seeks investigation into the affairs of the 2nd respondent-Bank. The Petition was filed way back on 5th October 2004. A number of Affidavits have been filed by the respondents from time to time.

3. We are told that at one point of time a moratorium was imposed on this Bank and it still continues. It was also proposed to suspend the banking licence of the 2nd respondent-Bank, but in view of the representation of various parties the Reserve Bank of India has stayed its hands and has permitted the 2nd respondent-Bank to function.

4. What is material to note is that by its Affidavit dated 28th June 2006, Mr.Shashikant P. Ghorpade, District Deputy Registrar, Co-operative Societies, Mumbai, has stated in paragraph 2 as follows:-

> " I say that the enquiry conducted under Section 83 of the Maharashtra Co-operative Societies Act, 1961 has been completed and a report has been submitted

by the Enquiry Officer Shri Vikas Rasal, District Deputy Registrar, Co-operative Societies (II), Mumbai to the Commissioner and Registrar, Co-operative Societies vide letter dated 10.3.2006. I say that vide communication dated 16th May, 2006 addressed to my predecessor in office, the findings of the enquiry have been communicated to my office. An Office Translation of the said communication dated 16th May, 2006 with the findings under Section 83 reproduced therein, is hereto annexed and marked as **EXHIBIT-1.** I say that the said report with the findings recorded therein has been forwarded by the Office of the Commissioner and Registrar of Co-operative Societies, M.S. Pune to the Respondent No.2, the South Indian Co-operative Bank Ltd. for its reply in accordance with the provisions of Section 84(4). I say that as soon as the reply of the Bank is received, appropriate action under Section 88 will be taken by the Commissioner and Registrar, Co-operative Societies."

It is stated in this paragraph that the enquiry

has been conducted by appropriate officers of the State under Section 83 of the Maharashtra Co-operative Societies Act (for short "MCS Act"). Findings of that officer have been received and the Commissioner and the Registrar of the Co-operative Societies are looking into the entire aspect. It is further stated that the reply of the Bank is sought.

5. Mr.Bhadrashete appearing for respondent Nos.2 and 3 states that the reply will be filed within two weeks from today. On receiving the reply, the officers of the Co-operative Department concerned are expected to take appropriate action under Section 88 of the MCS Act.

6. Mr.Munshi appearing for respondent Nos.1-RBI and 4 states that the Reserve Bank of India is fully seized of the matter. An Affidavit dated 7th November 2006 has been filed by one Mr.Rajagopaul V. Iyer, who is presently functioning as an Administrator of this Bank and has stated therein that by 28th October 2006, a sum of about Rs.46.60 Crores has been recovered. Mr.Bhadrashete states that further recoveries are in process.

7. The Bank was expected to file the bi-monthly reports. We direct the Bank to file those bi-monthly reports with the Reserve Bank of India, with a copy to the Commissioner of the Co-operative Societies, Maharashtra State.

8. Ms.Menon appearing for the petitioners accepts that Mr.Iyer has been doing a good job as the Administrator. She fears that perhaps his term may be discontinued.

9. We asked Mr.Belose, Government Pleader, as to what is the position in that behalf. He has left it to the Court to give necessary directions.

10. In view of the request of Ms.Menon and in view of what is stated by Mr.Belose, there is no reason to disturb the position of Mr.Iyer who appears to be doing a good job. The Administrator has been appointed by the Commissioner of Co-operation on a requisition by the Reserve Bank of India under Section 110A of the MCS Act. Under sub-section (iii) of Section 110A of the MCS Act, the term is supposed not to exceed five years. As of now, only six months have gone. This being the position, in our view, Mr.Iyer can continue for the remainder term unless there are any serious

complaints received by the Commissioner for Co-operation. The Commissioner, however, will not take any action to discontinue him except after consulting the appropriate officers of the RBI.

11. We expect the Authorities of the State Government to take their decision after receiving a reply of the 2nd respondent expeditiously and preferably within three months from the receipt thereof.

12. In view of the above, the Petition stands disposed of.

(H.L. GOKHALE, J.)

(V.M. KANADE, J.)